

REMARKS

This communication responds to the final Office action mailed December 28, 2005.

Claims 16, 28, and 33 are currently amended. Claims 38-40 have been added. The claim amendments and claim additions do not add new matter.

Interview Summary

On January 26, 2006, an Examiner interview was conducted with Examiner Fernandez, David Bruhn, and Bridget Hayden, which Applicants appreciate. The interview focused on overcoming the prior art § 102 rejection of independent claim 16 by amending the claim to distinguish from the cited Janssen et al. reference. It was agreed that Applicant would submit an amendment to claim 16.

Rejection under 35 U.S.C. § 112

Claims 28-30, 33 and 35 were rejected under 35 U.S.C. § 112, second paragraph.

Applicant respectfully traverses the 35 U.S.C. § 112, second paragraph rejection of the claims. However, in order to advance prosecution, Applicant has formally amended claims 28, 33, and 35. Claim 28 has been amended to clarify the enzyme region. Claim 33 has been amended to clarify the channel. Claim 35 has been amended to recite “wherein said surface of said sensor comprises a porous layer, said porous layer providing an increased surface area for diffusion into the channel.” Applicant submits that the amendments to the claims addresses the 35 U.S.C. § 112, second paragraph rejection.

Rejections under 35 U.S.C. §§ 102 and 103

Claims 16-20, 24, 25, 27, 32-33, and 35-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by Janssen et al. EP 539625.

Claims 28-30 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Janssen et al. in view of Clark, Jr. U.S. Patent 4,680,268.

Claim 37 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Janssen et al. in view of von Woedtke et al.

Pursuant to the interview mentioned above, Applicant has amended claim 16 to more clearly distinguish it from Janssen et al. In view of the above amendment, Applicant believes the

Application is now in allowable form. Applicant respectfully requests entry of the amendment to claim 16 and that the § 102(b) rejection of the claims be withdrawn.

Clark Jr. and von Woedtke et al. fail to remedy the deficiencies of Janssen et al. because Clark Jr. fails to disclose an analyte-impermeable oxygen-permeable membrane as required by the independent claims (see Fig. 1), and von Woedtke et al. fails to disclose an analyte-impermeable oxygen-permeable membrane having no analyte window or channel, or an analyte-impermeable oxygen-permeable membrane that is substantially continuous (see Fig. 2). Accordingly, Applicant respectfully requests that the § 103(a) rejections be withdrawn.

Claims 17-37 depend from independent claim 16, and recite additional novel features of the present invention. Therefore, dependent claims 17-37 are distinguishable over the prior art for at least the reasons set forth above, as is new claim 38.

New independent claim 39 is distinguishable over the prior art because the prior art fails to disclose, teach or suggest the claim 39 requirement of a substantially continuous analyte-impermeable oxygen-permeable membrane. New claim 40 is dependent from claim 39, and recites additional novel features of the present invention and is therefore distinguishable over the prior art for the reason set forth above.

Conclusion

No fee is deemed necessary. The Commissioner is hereby authorized to charge any additional fees and/or credit any overpayments associated with this paper to Deposit Account No. 04-1420.

This application now stands in allowable form, and entry, reconsideration and allowance are requested.

Respectfully submitted,

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